

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

MIGUEL A. VÁZQUEZ-HERNÁNDEZ,

Civil No. 08-2038 (JAF)

Plaintiff,

V.

WILFREDO ESTRADA-ADORNO, et al.,

Defendants.

O R D E R

On September 12, 2008, Plaintiff, Miguel A. Vázquez-Hernández, filed the present complaint against Defendants, the Commonwealth of Puerto Rico; the Administración de Corrección ("AOC"); Wilfredo Estrada-Adorno, Director of Pre-Release Programs; Lilliam Álvarez, Director of Pre-Release Programs; Annie González-Pérez, Community Program Chief; the Junta de Libertad Bajo Palabra ("Parole Board"); and María E. Meléndez-Rivera, president of the Parole Board, under 42 U.S.C. § 1983, alleging that Defendants discriminate on the basis of sex. (Docket No. 1.) On January 12, 2009, Defendants moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). (Docket No. 14.) Plaintiff opposed on January 27, 2009. (Docket No. 20.)

Because Plaintiff is pro se, we construe his pleadings more favorably than we would those drafted by an attorney. See Erickson v. Pardus, 551 U.S. 89, 94 (2007). However, Plaintiff's pro-se status

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1 does not excuse him from complying with procedural and substantive
2 law. Ahmed v. Rosenblatt, 118 F.3d 886, 890 (1st Cir. 1997).

3 Plaintiff is an inmate in the penal custody of the Commonwealth
4 of Puerto Rico. (Docket No. 2.) He asserts that the AOC does not
5 treat men and women equally. (Id.) He states that the AOC denies
6 rehabilitation programs, psychological treatment, pre-release
7 programs, and parole to men serving sentences for domestic
8 disturbances. (Id.) He seeks \$250,000 in monetary damages and an
9 injunction requiring Defendants to cease sex discrimination at the
10 AOC. (Id.)

11 Defendants argue, inter alia, that Plaintiff has failed to state
12 a claim under 42 U.S.C. § 1983. (Docket No. 14.) Federal Rule of
13 Civil Procedure 8(a)(2) requires complaints to contain "a short and
14 plain statement of the claim showing that the [plaintiff] is entitled
15 to relief." In assessing a motion to dismiss, "we take the
16 well-pleaded facts in the light most favorable to the plaintiff and
17 indulge him all reasonable inferences." Gagliardi v. Sullivan, 513
18 F.3d 301, 305 (1st Cir. 2008). "A pleading that offers 'labels and
19 conclusions' or 'a formulaic recitation of the elements of a cause of
20 action will not do.'" Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009)
21 (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)).

22 Here, Plaintiff has not alleged that he was denied access to any
23 particular programs; nor has he pled facts that suggest the existence
24 of a policy treating male prisoners differently from female

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2 prisoners. (See Docket No. 1.) He has presented nothing more than the
3 conclusory statement that the AOC discriminates against men by
4 denying them access to rehabilitation and treatment programs and
5 parole. (See id.) Because Plaintiff has not stated any facts
6 supporting his allegation of sex discrimination, he has failed to
7 comply with the pleading requirements of Rule 8. See Iqbal, 129 S.Ct.
at 1949.

8 In accordance with the foregoing, we hereby **GRANT** Defendants'
9 motion to dismiss (Docket No. 14), and **DISMISS** Plaintiff's complaint
10 (Docket No. 2) **WITH PREJUDICE**.

11 **IT IS SO ORDERED.**

12 San Juan, Puerto Rico, this 3rd day of June, 2009.

13 s/José Antonio Fusté
14 JOSE ANTONIO FUSTE
15 Chief U.S. District Judge